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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,072	07/23/2003	Walter Kovaks	Y03-019	9764
7590	08/25/2004		EXAMINER	
Kenneth W. Float The Law Offices of Kenneth W. Float P.O. Box 80790 Rancho Santa Margarita, CA 92688			CAMPBELL, THOR S	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/626,072	KOVAKS, WALTER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Thor S. Campbell	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-17 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 23 July 2003 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

\* See the attached detailed Office action for a list of the certified copies not received

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyers (US 4263498).

Meyers discloses a hot water dispensing system comprising: an outer housing; a water tank comprising an inlet and an outlet disposed within the housing; a heating element disposed inside of the water tank; a heater control disposed within the housing that is coupled to the heating element; a thermostat coupled to the heater control that senses and controls the temperature of water in the water tank in conjunction with the heater control and heating element; an inlet tube for connection to a cold water source; a variable volume expansion chamber comprising a flexible internal bladder; an orifice block comprising an input passage coupled to the inlet tube, a suction tube coupled to the variable volume expansion chamber, and an outlet passage coupled to the inlet of the water tank; a discharge hose coupled to the outlet of the water tank for connection to a faucet, wherein the outer housing comprises metal wherein the variable volume expansion chamber comprises plastic.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 5, 7, 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers.

Meyers discloses a hot water dispensing system comprising: an outer housing; a water tank comprising an inlet and an outlet disposed within the housing; a heating element disposed inside of the water tank; a heater control disposed within the housing that is coupled to the heating element; a thermostat coupled to the heater control that senses and controls the temperature of water in the water tank in conjunction with the heater control and heating element; an inlet tube for connection to a cold water source; a variable volume expansion chamber comprising a flexible internal bladder; an orifice block comprising an input passage coupled to the inlet tube, a suction tube coupled to the variable volume expansion chamber, and an outlet passage coupled to the inlet of the water tank; a discharge hose coupled to the outlet of the water tank for connection to a faucet, wherein the outer housing comprises metal wherein the variable volume expansion chamber comprises plastic. Meyers does not explicitly disclose the use of stainless steel for the water tank, a self-resetting bimetallic control switch, or that the expansion means is designed to withstand pressures of at least 300 psi. It would have been obvious to one having ordinary skill in the art at the time the invention was made to

use stainless steel for the water tank, since it has been held to be within the general skill or a worker in the art to select a known material on the basis of its suitability for the intended use. In re Leshin, 125 USPQ 416. It is noted that although Meyers does not explicitly discuss the thermostatic control means 72, it is well known in the art of water heating to use self-resetting bimetallic switches to control the heating of water in conjunction with the heating element, such devices rely on different expansion rates of metals in the switch to complete or break an electrical circuit. One of ordinary skill in the art would assume the thermostat 72 to be of such a construction. With respect to claims 3, and 11, since applicant's limitation requires only that the expansion chamber is "capable" of withstanding at least 300 psi, and recites no specific structure to distinguish over the prior art of Meyers, it is assumed that Meyers is capable of this function since Meyers discloses the same structure as claimed.

Claims 8-9, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyers in view of Celorier, Jr. et al. (US 5778679).

Meyers discloses the claimed invention except the specific structure of the expansion tank having a first and second mating section sandwiching the bladder. Celorier discloses a plastic expansion tank having a first and second mating section sandwiching the bladder. It would have been obvious to one of ordinary skill in the art to modify the device of Meyers to use the plastic construction taught by Celorier, in order to provide a corrosion resistant expansion tank having a capability of withstanding high pressure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thor S. Campbell whose telephone number is 703-306-9042. The examiner can normally be reached on Tue-Fri 5:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 703-305-5766. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TSC  
08/19/04



THOR CAMPBELL  
PATENT EXAMINER